**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.**

**ITC No.4 of 1999**
Date of decision: 9.11.2009

**The Commissioner of Income Tax, Patiala**

-----Applicant

Vs.

**M/s Channy Enterprises, Mandi Gobindgarh**

----Respondent

**CORAM:- HON'BLE MR JUSTICE ADARSH KUMAR GOEL**
**HON'BLE MR. JUSTICE GURDEV SINGH**

Present:- Ms. Urvashi Dhugga, Advocate for the revenue.
Mr. Animesh Sharma, Advocate for the respondent.

**Adarsh Kumar Goel**,J.

1. This application has been filed by the revenue for a direction to refer following questions of law for opinion of this Court, arising out of Tribunal's order dated 16.1.1997 in ITA No.1579/Chandi/1990, for the assessment year 1988-89:-

> "i) Whether on the facts and in the circumstances of the case, the ITAT was right in law in deleting the additions of Rs.9515/- and Rs.2,06,250/- upheld by the CIT(A) on account of excess stock

available with the assessee from unexplained investment?

ii) Whether on the facts and in the circumstances of the case, the ITAT was right in law in upholding that the value of rolls purchased on 28.3.1987 was reflected in the closing stock when the issue relates to purchase and consumption of rolls before the end of the year?"

2. The assessee is engaged in manufacture of iron rolls and pattis. As a result of search and seizure operation conducted on 12.8.1987 at the business premises of the assessee and its sister concerns, assessment was made by making addition to the declared value of closing stock and also by holding that there was unexplained investment by the assessee. The additions were confirmed by CIT(A) but the Tribunal deleted the same accepting the explanation of the assessee. The Tribunal, inter-alia, observed:-

"Even otherwise the accounts of the assessee have not been rejected by the AO and the assessee has been sending its monthly reports to be Excise Department which were found to be in order. The assessee has also furnished a certificate from the bank dated 10.12.1988 stating that no statement

for the month of July 1987 was filed by the assessee to the bank authorities. The case of the assessee vis-à-vis the bank for purposes of obtaining over-draft, is not a case of pledge but of hypothecation and it is also not disputed that the assessee was maintaining regular stock register which was subject to the check by Excise Authorities whom monthly reports are being sent and no discrepancy was found by them. In this view of the matter, we hold that the case of the assessee is similar to the case of this Hon'ble Madras High Court in the case of Ramakrishna Mills Limited (supra). Accordingly we are of the opinion that the departmental authorities were not justified in making the disputed addition which is directed to be deleted."

3. In view of above finding of the Tribunal, which is not shown to be perverse, we are of the view that no question of law arises which can be directed to be referred to this Court. The Assessing Officer and the CIT(A) made and upheld addition on account of excess stock only on the basis of difference in the stock as per books of accounts and value of stock declared in the statement furnished to the bank. On examination of the matter, the Tribunal held

that the value of stock as disclosed in the books of account was correct. Once that is so, no objection could be taken to the deletions on that account. If the value of the stock was accepted as correct, further inference regarding correctness of value of rolls purchased on 28.3.1988 was also rightly held to be not called for. Thus, no referable question of law arises.

4. We, thus, do not find any ground to direct the Tribunal to make reference, as prayed.

5. The application is dismissed.

(Adarsh Kumar Goel)
Judge

November 9, 2009 (Gurdev Singh)
'gs' Judge